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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/782,619

02/18/2004

Stephen M. Hutnik

2003-0104

5093

26652

7590

08/27/2007

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EXAMINER

GELIN, JEAN ALLAND

ART UNIT

PAPER NUMBER

2617

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/782,619	<b>Applicant(s)</b> HUTNIK ET AL.	
	<b>Examiner</b> Jean A. Gelin	<b>Art Unit</b> 2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 January 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This is in response to the Applicant's arguments amendments filed on January 26, 2007 in which claims 1, 7, and 12 have been amended. Claims 1-14 are currently pending.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, and 6-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Roese et al. (US 2003/0225893).

Regarding claim 1, Roese discloses a method of optimizing network routing and load distribution in a virtual network, comprising: obtaining from a user device geographical coordinates for a user a device (i.e., network receives signals from user device to determine the location of the user [0041]), determining an optimal network server for the user device based on the geographical coordinates (i.e., system can employ the location information to effect a modification of the access requirement [0121]), and connecting the user

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device to the virtual private network through the optimal network server ([0121], [0143], and [0158]).

Regarding claim 2, Roese further discloses wherein the step of determining comprises the user device automatically selecting the optimal network server based on the geographical coordinates ([0121] and [0154]).

Regarding claim 3, Roese further discloses wherein the step of determining comprised the user device sending the geographical coordinates to an authentication server for selecting the optimal network server based on the geographic coordinates ([0119]-[0121]).

Regarding claim 4, Roese further discloses wherein the optimal network server is based on proximity to the user device ([0054]).

Regarding claim 6, Roese further discloses authenticating the user device before allowing it to be connected to the virtual private network ([0119]-[0121]).

Regarding claim 7, Roese discloses a user device capable of automatically connecting to an optimal network server in a virtual private network ([0159]-[0165]), comprising: location reporting equipment connected to the user device and configured to provide geographical coordinates for a location of the user device ([0119]-[0121]), a central processing unit of the user device connected to the location reporting equipment and a storage unit connected to the central processing unit, the storage unit storing a virtual private network thereon ([0119]-[0121] and [0178]), that is capable of: obtaining from a user device geographical coordinates for a user a device (i.e., network receives

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signals from user device to determine the location of the user [0041]), determining an optimal network server for the user device based on the geographical coordinates (i.e., system can employ the location information to effect a modification of the access requirement [0121]), and connecting the user device to the virtual private network through the optimal network server ([0121], [0143], and [0158]).

Regarding claim 8, Roesse further discloses wherein the location reporting equipment is a GPS module (location information being delivered using GPS devices, [0008]).

Regarding claim 9, Roesse further discloses wherein the virtual private network client determines the optimal network server by selecting it from a list of network servers based on the geographical coordinates ([007] and [0119]-[0121]).

Regarding claims 10, and 11, Roesse further discloses a network access the network access device is capable of establishing a broadband connection as well as narrowband connection between the user device and the virtual private network [0007].

Regarding claim 12, Roesse discloses a virtual private network ([0119]-[0121]), comprising: a plurality of network servers ([0038]-[0041]), an authentication server, connected to the network servers, the authentication server connected to the network servers, the authentication server having a virtual private network host ([0119]-[0121]), executing thereon and configured to: receive from a user device geographical coordinates for a user a device (i.e.,

network receives signals from user device to determine the location of the user [0041]), determine an optimal network server for the user device based on the geographical coordinates (i.e., system can employ the location information to effect a modification of the access requirement [0121] and send identifying information for the optimal network server to the user ([0119]-[0121])).

Regarding claim 13, Roese further discloses a remote access server capable of connecting the user device to the virtual private network and also the Internet [0138]-[0142]).

Regarding claim 14, Roese further discloses at least one of the network servers is a tunnel server ([0158]).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roese et al as applied to claim 1 above, and further in view of Huetsch et al. (US 2002/0049842).

Regarding claim 5, Roese fails to disclose wherein the optimal server is selected based on load distribution.

In an analogous filed of endeavor, Huetsch discloses a load balancing method wherein a processing server is selected to service a client request based

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on information about locations of clients and the relative processing load of the processing servers (see page 1, [0009- 0010, page 3, [0034-0039]).

It would therefore have been obvious to one of ordinary skill in the art to provide Huetsch load balancing capability to Roesse's system in order to ensure even distribution of load over servers in order to improve network performance while reducing latency in service provisioning.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sampedro et al.

US 2004/0034467

02/19/2004

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

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calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean A. Gelin whose telephone number is (571) 272-7842. The examiner can normally be reached on 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JEAN GELIN  
PRIMARY EXAMINER

JGelin  
August 21, 2007

